IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

WP(C).No. 34811 of 2007(T)

PETITIONERS:

1. **N.A.SUNNY, MANAGING PARTNER, OMEGA DISTRIBUTORS, KURUPPAM ROAD, TRICHUR-1.**
2. **LINS.V.BABU, VADAKKETHALAKKAL HOUSE, KURUPPAM ROAD, TRICHUR-1.**
3. **BADARUDHEEN MOHAMMED, PARTNER, TRICHUR TRADE CENTRE, KURUPPAM ROAD, TRICHUR-1.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

1. **THE EXCISE COMMISSIONER, COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM.**
2. **KERALA STATE BEWERAGES (M & M) CORPORATION, REPRESENTED BY THE MANAGING DIRECTOR, THIRUVANANTHAPURAM.**
3. **THE DISTRICT COLLECTOR, TRICHUR.**
4. **THE ASSISTANT EXCISE COMMISSIONER, TRICHUR.**
5. **THE MANAGER, KERALA STATE BEWERAGES (M &M)CORPORATION LTD., DISTRICT WAREHOUSE, TRICHUR.**

BY GOVERNMENT PLEADER SMT. ANU SIVARAMAN for R1 toR4
BY ADV. SRI.MILLU DANDAPANI for R5

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.34811 OF 2007

Dated this the 26th day of November, 2007

JUDGMENT

The Kerala State Beverages Corporation Ltd. has an IMFL outlet near the residential or commercial premises of the petitioner. There is only vending in sealed containers (bottles or otherwise) and there is no permission for consumption of IMFL in the premises of Beverages Corporation. If there is consumption outside the premises of the Corporation, either in the public road or in the nearby vacant land, that may amount to consumption of alcohol in public place, which would be an offence punishable in law. The petitioners complain that IMFL purchased from the said outlet of the Corporation is often consumed openly, resulting in nuisance to the families, including that of the petitioners and also impairing the business activities of the petitioners.

2. While the Beverages Corporation has licence to vend and the consumers may have the right to purchase and consume,

there can be no exercise of such rights beyond what is sanctioned by law and in any manner, creating nuisance to the petitioners. The power of the District Magistrate or the Additional District Magistrate, as the case may be, in terms of the Code of Criminal Procedure can also take care of the situation. That apart, under the Excise Laws, appropriate complaints can be made.

In the result, this writ petition is disposed of directing that the 4th respondent, Assistant Excise Commissioner, Trichur, will convene a meeting of the petitioners, the competent officer in the second respondent as also the 5th respondent and consider the complaint of the petitioners and come to a reasonable and practicable solution. The parties will appear before the 4th respondent on 4.12.2007.

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.